

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

SEVENTH GENERATION,

Respondent.

DOCKET TE-140414

SETTLEMENT AGREEMENT

1 This settlement agreement (Agreement) is entered into by both parties to this
proceeding for the purpose of resolving all issues raised in the above docket.

I. PARTIES

2 The parties to this Agreement are Seventh Generation (“Seventh Generation” or
“Company”), and the Staff of the Washington Utilities and Transportation Commission
 (“Staff”) (collectively, “the Parties”).

II. RECITALS

3 Seventh Generation applied to the Commission for charter party and excursion
service carrier authority on February 12, 2014, in Docket TE-140223. The Company’s
application for new charter party and excursion service carrier authority was granted by the
Commission on March 14, 2014. Seventh Generation previously held similar authority,
which was cancelled on November 19, 2013.

4 On February 28 and March 3, 2014, Commission Licensing Services staff received
complaints from two certificated charter party and excursion service carrier companies that

Seventh Generation had provided charter party services without operating authority from the Commission. Motor Carrier Safety staff contacted Mohan Skiing and Boarding (“Mohan Skiing”), a ski school for which Seventh Generation reportedly provided charter party carrier service. Mohan Skiing produced a copy of an invoice from Seventh Generation, dated March 1, 2014, showing that Seventh Generation completed two separate trips from Kent, Washington to Snoqualmie Summit East, in Washington, on February 14 and 28, 2014. The invoice showed that Seventh Generation charged \$800 for each of these trips such that \$1,600 was the total amount charged and received by Seventh Generation for the transportation services. Such charter party carrier services were provided when Seventh Generation did not have a charter party carrier certificate (charter certificate) from the Commission.

5 The Commission issued a Complaint and Notice of Prehearing Conference in this docket on April 17, 2014, and held a prehearing conference on May 19, 2014. Subsequently, the Parties entered into a settlement discussion and reached an agreement in principle. The settlement is memorialized in this Agreement.

III. AGREEMENT

6 The Parties have reached agreement on the issues raised in the above docket and present their agreement for the Commission’s consideration and approval. The Parties therefore adopt the following Agreement, which the Parties enter into voluntarily to resolve the matters in dispute between them and to expedite the orderly disposition of this proceeding.

7 Seventh Generation admits two violations of RCW 81.70.220 – Engaging in business as a charter party carrier without a certificate from the Commission, and two

violations of RCW 81.70.260 – Engaging in business as a charter party carrier after cancellation of a certificate by the Commission, as set forth in the Complaint.

8 The Parties agree that Seventh Generation will pay to the Commission a penalty of \$1,600, with a \$2,400 penalty suspended and subject to waiver on the conditions that (1) the Company maintains its current charter certificate in good standing for one year following the approval of this Agreement, and (2) if Staff conducts a compliance review during that year, the Company achieves a “Satisfactory” Safety Rating in the compliance review. These conditions are further described below.

9 The Parties agree that Seventh Generation will pay the \$1,600 penalty, due on the first day of the month following Commission approval of this Agreement. If Seventh Generation fails to pay the penalty as outlined in this Agreement, the remaining penalty, including the suspended amount, shall be due and payable immediately.

10 The Parties agree that Seventh Generation will keep its current charter certificate in good standing, including maintaining proof of the required liability and property damage insurance on file with the Commission, and timely file all required annual reports and pay regulatory fees. If Commission staff conducts a safety compliance review of the Company within the one-year compliance period, Seventh Generation must achieve a “Satisfactory” Safety Rating as a result of that review. Upon completion of the one-year compliance period, Staff will recommend, by a filing in this docket, that the Commission waive the suspended penalty if (1) the Company maintained its charter certificate in good standing, and (2) any compliance review conducted by Staff results in a “Satisfactory” Safety Rating for the Company. If these conditions are not met, Staff will recommend that the Commission impose the suspended penalty.

IV. GENERAL PROVISIONS

11 The Parties agree that this Agreement is in the public interest. The Parties further agree that this Agreement reflects the settlement of all contested issues between them in this proceeding. The Parties understand that this Agreement—including the admissions contained herein—is not binding unless and until accepted by the Commission. If the Commission does not accept this Agreement, including all of its terms and conditions without change, then the Parties shall be free to assert their pre-settlement positions and agree that neither this Agreement nor any statements or admissions contained herein shall be admissible or used for any purpose in this docket or any other proceeding for any purpose.

12 The Parties agree to cooperate in submitting this Agreement promptly to the Commission for acceptance. The Parties agree to support adoption of this Agreement in proceedings before the Commission. No party to this Agreement or its agents, employees, consultants, or attorneys will engage in advocacy contrary to the Commission's adoption of this Agreement.

13 The Parties agree (1) to provide each other the right to review in advance of publication any and all announcements or news releases that the other party intends to make about the Agreement (with the right of review to include a reasonable opportunity to request changes to the text of such announcements) and (2) to include in any news release or announcement a statement that the Staff's recommendation to approve the settlement is not binding on the Commission itself.

14 Nothing in this Agreement shall limit or bar any other entity from pursuing legal remedies against Seventh Generation or Seventh Generations' ability to assert defenses to such claims.

15 The Parties have entered into this Agreement to avoid further expense, inconvenience, uncertainty, and delay. The Parties recognize that this Agreement represents a compromise of the Parties' positions. As such, conduct, statements, and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other proceeding, except in any proceeding to enforce the terms of this Agreement or any Commission order fully adopting those terms. This Agreement shall not be construed against either party because it was a drafter of this Agreement.

16 By executing this Agreement, no Party shall be deemed to have approved, admitted, or consented to the facts, principles, methods, or theories employed in arriving at the terms of this Agreement, nor shall any Party be deemed to have agreed that any provision of this Agreement is appropriate for resolving issues in any other proceeding, except to the extent expressly set forth in the Agreement.

17 The Parties have negotiated this Agreement as an integrated document to be effective upon execution. This Agreement supersedes all prior oral and written agreements on issues addressed herein. Accordingly, the Parties recommend that the Commission adopt this Agreement in its entirety.

18 The Parties may execute this Agreement in counterparts and as executed shall constitute one agreement. A signed signature page sent by facsimile or email is as effective as an original document.

19 The Parties shall take all actions necessary as appropriate to carry out this Agreement.

20 In the event that the Commission rejects all or any portion of this Agreement, or accepts the settlement upon conditions not proposed in this Agreement, each party reserves

the right to withdraw from this Agreement by written notice to the other party and the Commission. Written notice must be served within 10 business days of the Order rejecting part or all of this Agreement or imposing conditions not proposed in this Agreement. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and the Parties agree to request the prompt reconvening of a prehearing conference and to cooperate in developing a procedural schedule.

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

SEVENTH GENERATION

ROBERT W. FERGUSON
Attorney General



MICHAEL A. FASSIO
Assistant Attorney General
Counsel for the Washington Utilities and
Transportation Commission

Dated: May 29, 2014.



DAVID HARE
Owner
Seventh Generation

Dated: May 26, 2014.